United Nations A/HRC/29/15/Add.1

General Assembly

Distr.: General
10 June 2015

Original: English

Human Rights Council
Twenty-ninth session
Agenda item 6
Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

Turkey

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

GE.15-09368 (E)
1509368

Please recycle

The following recommendations posed during the second cycle of Turkey's UPR review on 27 January 2015, have been examined by Turkey and the responses are provided below.

150.1. **Accepted**, subject to the decision of the authorities competent to ratify international agreements.

150.2. **Not accepted**. Turkey is committed to the ideals and principles which underpin the Rome Statute and the International Criminal Court. In view of the Court's complementary jurisdiction, Turkey has made some modifications in its domestic legislation. Some more modifications are still needed. Yet, Turkey believes that as long as terrorism is not included within the ambit of the Rome Statute, the ICC will remain seriously inadequate.

150.3. **Not accepted**. See response to recommendation 150.2.

150.4. **Not accepted**. See response to recommendation 150.2.

150.5. **Not accepted**. See response to recommendation 150.2.

150.6. **Not accepted**. See response to recommendation 150.2.

150.7. **Not accepted**. See response to recommendation 150.2.

150.8. **Not accepted**. See response to recommendation 150.2.

150.9. **Not accepted**. The issue necessitates the careful assessment of the competent Turkish authorities.

150.10. **Not accepted**. See response to recommendation 150.9.

150.11. **Not accepted**. The 4th Judicial Reform Package amended Article 94 of the Turkish Penal Code abolishing the statute of limitations with regard to the offence of torture. However, currently no work is underway for abolishing statute of limitations on items referred to in the recommendation.

150.12. **Accepted** in view of the scope of the recommendation and bearing in mind Article 10 of the Constitution which safeguards equal rights of men and women and further enhances women's rights by including a positive discrimination clause, as well as the priority given by the Government to combatting discrimination and violence against women.

150.13. **Not accepted**. Article 125 of the Turkish Penal Code on defamation is in line with the case-law of the European Court of Human Rights. The Article does in no way lead to prosecution of human rights defenders and journalists.

150.14. **Not accepted**, no grounds for amendment at this stage.

Law no. 5651 (Internet Law) which safeguards freedom of expression while protecting personal rights and privacy is in line with international standards, in particular Article 10 of the European Convention on Human Rights, and Article 15 of the Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 on privacy and electronic communications which provide for restrictions of electronic communications on basis of national security, public order and prevention of crime. Furthermore, the implementation of the law is followed within the framework of the Action Plan on Prevention of Violations of European Convention on Human Rights adopted in 2014.

150.15. **Not accepted**. Article 26 of the Constitution is in line with Article 10 of the European Convention on Human Rights to which Turkey is a party.

150.16. **Accepted**. The revision of the Law is a matter that could only be considered if the need arises. See also explanation provided for recommendation 150.14.

150.17. **Not accepted**, no grounds for amendment at this stage.

As a rule, the decision to remove content and/or block access is given by a judge. The decision to remove content and/or block access issued by the Presidency of Telecommunication and Communication (TIB) in cases of breach of privacy where delay may cause harm/irreversible damage is to be submitted for the approval of the judge within 24 hours. The judge shall announce his/her decision within 48 hours. Accordingly, the decision of the TIB is subject to judicial oversight within 72 hours.

Likewise, as an exception, only in cases where delay may cause harm/irreversible damage, in other words "in cases where delay is prejudicial" as stipulated in the Constitution, upon the request of the Prime Ministry or related Ministries on grounds of protection of right to live, protection of property, national security and public order, prevention of crime or protection of public health, TIB may decide to remove content and/or block access. The decision of the TIB shall be submitted for the approval of the judge within 24 hours. The judge shall announce his/her decision within 48 hours. Accordingly, the decision of the TIB is subject to judicial oversight.

Furthermore, see also explanation provided for recommendation 150.14.

150.18. **Not accepted**. In recent years, Turkey has significantly improved its basic laws with a view to expanding the scope of the freedom of expression and aligning the legislation with the standards of the European Court of Human Rights and universal norms.

Furthermore, implementation of the legislation related to freedom of expression is closely followed by the Ministry of Justice and within the framework of the Action Plan on the Prevention of Violations of the European Convention on Human Rights. However, currently, no work is underway for amending the provisions mentioned in the recommendation.

150.19. **Not accepted**. See response to recommendation 150.18.

150.20. **Not accepted**. See response to recommendation 150.14.

150.21. **Not accepted**. See response to recommendation 150.17.

150.22. **Already implemented**. No Turkish legislation includes any provision that would lead to imprisonment of journalists on account of their journalistic work. Everyone is equal before the law without any distinction as to their profession.

On the other hand, 4th judicial reform package of 2013 amended the Anti-Terror Law in line with the case-law of the European Court of Human Rights and accordingly Article 6 and 7 of the Anti-Terror Law was amended so as to reflect a more concrete criteria for conviction.

150.23. **Already implemented.** Article 34 of the Constitution safeguards the right to peaceful assembly. Accordingly, everyone has the right to hold unarmed and peaceful meetings and demonstration marches without prior permission. Procedures for peaceful meetings and demonstrations are regulated by the Law no. 2911 and the by-law on its implementation. The Law no. 2911 also upholds the right to peaceful assembly as enshrined in the Constitution. Accordingly, the right to peaceful assembly is explicitly recognized and safeguarded by the current legislation.

150.24. **Not accepted** in view of the scope of the recommendation.

Article 10 of the Constitution safeguards equality before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds. Thanks to the phrase "or any such grounds", grounds for prohibition of discrimination are just exemplary, not limited to those listed in the Article. Furthermore, a

comprehensive law on anti-discrimination and equality has been drafted. The final text of the draft law is subject to the decision of the competent legislative authorities.

150.25. **Not accepted**. See response to recommendation 150.24.

150.26. **Accepted**. See response to recommendation 150.12.

150.27. **Not accepted**. See response to recommendation 150.24.

150.28. **Not accepted**. Relevant legislation has recently been strengthened and no further amendment is envisaged at this stage.

With a view to combating hate crimes, Article 122 of the Turkish Penal Code (TPC) on discrimination was amended within the framework of the Law no. 6529 adopted by the Parliament on 2 March 2014 which legislates the reforms announced through the Democratization Package. Accordingly, the title of the Article is changed from "discrimination" to "hatred and discrimination" and the penalty for those that discriminate in the acts cited in the article on ground of hatred based on differences of language, race, nationality, colour, sex, disability, political opinion, philosophical belief, religion or sect is increased.

150.29. **Already implemented**. The implementation of the recommendations posed during the second cycle of review and enjoy the support of Turkey, are monitored by the Reform Action Group, which plays a leading role in Turkey's human rights reform process.

UPR recommendations are to be considered within the aforementioned Action Plan on the Prevention of Violations of the European Convention on Human Rights of 2014 to the extent they correspond with each other.

150.30. **Not accepted**. See response to recommendation 150.24.

150.31. **Already implemented**. As in any democratic country governed by the rule of law, perpetrators of acts of discrimination and hate crimes against LGBTI persons are held to account and the judicial processes are diligently carried out. See also explanation provided for recommendation 150.24.

150.32. **Already implemented**. In recent years, Turkey has taken significant steps to combat discrimination on any ground and to ensure equality in practice. See also explanation provided for recommendation 150.24.

150.33. **Not accepted**. As there is no practice of publishing disaggregated data on complaints of violence against LGBTI persons. However, see responses to recommendations 150.31 and 150.24.

150.34. **Not accepted**. See response to recommendation 150.24.

150.35. **Already implemented**. Minority rights in Turkey are regulated in accordance with the Lausanne Peace Treaty, under which Turkish citizens belonging to non-Muslim minorities fall within the scope of the term "minority". No other definition of minority on any other basis exists in Turkey.

Dialogue with non-Muslim minorities has continued to increase. We are taking every step in order to further promote and protect the rights of our citizens belonging to religious minorities, including restoration, renovation and re-opening for service of places of worship of our religious minorities. As a most recent example, the Grand Synagogue in Edirne was opened for service on 26 March 2015 following restoration works. Furthermore, as a result of the legislative amendments undertaken in 2002, 2003, 2008 and 2011, 1029 immovable properties have been registered in the name of community foundations, and compensation for 21 immovables was paid between 2003–2014.

Furthermore, high-level officials meet with Alevi citizens and their problems and solution proposals have been heard and discussed directly.

150.36. **Not accepted**. In accordance with the Constitution, religious culture and ethics is a compulsory course in curriculum. New religious culture and ethics course books, which also include information about Alevi faith, were published by the Ministry of National Education in September 2011 and included in the curriculum of the 2011–2012 academic year.

150.37. **Already implemented**. Turkish citizens belonging to non-Muslim minorities in Turkey are able to carry out activities which require legal personality through their foundations and associations which may acquire movable and immovable property.

These citizens benefit from the minority rights stipulated in the Lausanne Peace Treaty. Accordingly, they have their own schools and at these schools, all courses except Turkish and Turkish culture are taught in their own languages. Students belonging to non-Muslim minorities can also freely attend any other public or private school that is not run by their respective minorities, without any restriction. At these schools, they are exempt from religious culture and ethics classes.

150.38. **Not accepted**. See response to recommendation 150.15.

150.39. **Not accepted**. See response to recommendation 150.18.

150.40. **Not accepted**. See responses to recommendations 150.15 and 150.18.

150.41. **Already implemented**.

150.42. **Not accepted**. See response to recommendation 150.14.

150.43. **Not accepted**. Related article of the TPC on defamation is in line with the case-law of the European Court of Human Rights. Limitations on freedom of expression, peaceful assembly and association are in line with international standards. Furthermore, implementation of the related legislation is followed within the framework of the Action Plan on Prevention of Violations of European Convention on Human Rights of 2014.

150.44. **Not accepted**. Limitations on freedom of expression and press, peaceful assembly and the right to access information are in line with international standards.

150.45. **Not accepted**. See response to recommendation 150.44.

150.46. **Not accepted**. Minority rights in Turkey are regulated in accordance with the Lausanne Peace Treaty, under which Turkish citizens belonging to non-Muslim minorities fall within the scope of the term "minority". Turkish citizens belonging to non-Muslim minorities enjoy and exercise the same rights and freedoms as the rest of the population and in addition they benefit from the minority rights stipulated in the Lausanne Peace Treaty. Turkish citizens belonging to non-Muslim minorities have their own places of worship, schools, foundations, hospitals, as well as printed media. In recent years, significant steps were taken in order to further promote and protect rights of our citizens belonging to non-Muslim minorities in particular property and education rights and freedom of religion. Please also see response to recommendation 150.24.

150.47. **Already implemented**. See response to recommendation 150.35.

150.48. **Not accepted**. According to the relevant Turkish legislation, based on the Lausanne Peace Treaty, only minority students are accepted to their respective minority schools in principle.

However, in accordance with the reciprocity clause inserted in the legislation, children of the Turkish and Greek officials, bearing diplomatic status, as well as children of the Turkish and Greek military personnel, appointed to international tasks in each other's

country are allowed to attend to the Turkish minority schools in Western Thrace and Greek minority schools in Istanbul respectively.

150.49. **Already implemented**. In accordance with the Lausanne Peace Treaty and the related Turkish legislation, Turkish citizens belonging to non-Muslim minorities have their own schools and at these schools, all courses except Turkish and Turkish culture are taught in their own languages. On the other hand, public schools began to offer elective courses on "Living Languages and Dialects" to all students enrolled in such schools to learn other spoken languages and dialects other than Turkish as of 2012–2013 academic year.

150.50. **Not accepted**. The withdrawal of the geographical limitation to the 1951 Convention relating to the Status of Refugees is a matter that can be considered provided that:

- This must be thoroughly addressed during the accession negotiations with the European Union;
- This must not lead to an influx of refugees;
- The legislative and infrastructural amendments are to be completed;
- The European Union is to show the necessary sensitivity on burden-sharing;
- Turkey and the EU sign the accession treaty.

150.51. **Already implemented**. Under the Law on Foreigners and International Protection, following the assessment of their applications, those coming from Europe can be given refugee status. The said Law provides for international protection and grants "conditional refugee" status in respect of foreigners coming from non-European countries until they settle in a third country.

Notwithstanding this difference in definition, no distinction is made in terms of ayslum procedures and all requests by applicants are considered in accordance with the 1951 Convention and the 1967 Protocol and the Law on Foreigners and International Protection Law. Both groups enjoy social and health assistance, right to work, employment, and education without discrimination.

Furthermore, the protection and humanitarian assistance Turkey provides for Syrians and Iraqis is a testimony to Turkey's strong commitment to non-discrimination towards international protection seekers.

150.52. **Already implemented**. See responses to recommendations 150.22 and 150.14.